

# CITY OF DENTON CITY COUNCIL MINUTES

November 18, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 18, 2014 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Engelbrecht, Council Member Gregory, Council Member Hawkins, Council Member Johnson, Council Member Roden, Council Member Ryan, and Mayor Watts.

ABSENT: None.

## 1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda Items.

## 2. Requests for clarification of agenda items listed on the agenda for November 18, 2014.

Mayor Watts asked what the new contract purpose was for the TMPA agreement.

Phil Williams, Manager-DME, stated that it was a continuation of the operating agreement through 2018. They were working through a new contract after 2018 after the existing contract ended.

Mayor Watts asked how long the firm would be retained.

Williams stated that it would be for the next couple of years.

Mayor Watts asked if the hourly rate would be the same and Williams replied correct.

Council Member Johnson asked what steps were taken to make sure local businesses could bid and have most favored nation to bid on city construction projects.

Elton Brock, Procurement Manager, stated that there were requirements in place to ensure that local businesses were afforded an opportunity to bid on contracts and were contacted through email. Bid notices were also posted in the newspaper and on the city's website. A local preference invitation for the bid processes included a 5% treatment for those vendors.

Council Member Roden requested an Informal Staff Report on that process.

Council Member Gregory requested that in the future on items similar to Consent Agenda Items P and U that information about the professionals that were being hired would be included especially if they were from out-of-town and why those individuals were being used.

## 3. Work Session Reports

A. CA11-0004b Receive a report, hold a discussion, and give staff direction regarding the update to the City of Denton's Comprehensive Plan.

Ron Menguita, Development Review Committee Administrator, stated that this was the second council work session regarding the Comprehensive Plan. The first section to discuss would deal

with the Parks, Conservation and Environment element which provided the character of Denton and what was seen throughout Denton. To get to these characteristics goals needed to be set.

Goal PCE-1 was to unite Denton through a framework of parks, open space, and recreation facilities that responded to unique community needs and matched population growth.

Goal PCE-2 was to use an integrative approach to environmental management to create local land conservation strategies tailored to protecting Denton's water, air, ecosystems, and natural character.

Goal PCE-3 was to create a framework for advancing sustainability in a comprehensive manner for the future of Denton.

The next element of the Plan update dealt with the Mobility Element #6 which presented thoughts on Denton in the future concerning mobility. There were four goals to get to those thoughts. Goal M-1 would provide for the safe, efficient movement of motor vehicles, bicycles and pedestrians in a sustainable way that complemented Denton's planned growth strategy. Goal M-2 enhanced Denton's economy by supporting the city's freight network. Goal M-3 created a transportation network where residents could walk, bicycle, and use other forms of non-motorized transportation for exercise, recreation and to get to daily destinations. Goal M-4 created an environment where transit was convenient and safe for travel both within Denton and to the rest of the region.

Housing and Neighborhoods was the next element to consider. Goal HN-1 would develop and maintain a housing stock that met the needs of all residents with a diverse array of choices in type, cost and location. Goal HN-2 would ensure the continued viability of Denton's established neighborhoods through thoughtful conservation. Goal HN-3 would maintain and improve the livability of Denton's neighborhoods through provision of adequate schools and community facilities.

Council discussed these goals, how they applied to current standards, how they would fit into the planning of the city and how to retrofit the goals to the categories of the plan.

B. ID 14-0718 Receive a report, hold a discussion and provide direction regarding a proposed ordinance defining compact cars and establishing back-in only parking along Hickory Street.

Mark Nelson, Director of Transportation, presented an update on the parking components associated with the redesign of Hickory Street. He displayed where back-in and parallel parking would be allowed on Hickory Street. An associated issue was compact parking. Some areas were better designated for compact parking for line of sight and safety for parking. Signage would be updated and include associated pavement markings.

Council Member Roden asked if there had been any discussion regarding the various types of parking that would be associated with the area and have one type of parking picked for that area.

Nelson stated that was not discussed with the Traffic Safety Commission.

Council Member Johnson felt that signage would be very critical due to the different types of parking spaces in the area. He felt that the Hickory back-in parking would work and questioned if any consideration had been given to not having compact parking at all. If the compact areas were only because of capacity, he felt they were not needed.

Nelson stated that they were set up for smaller vehicles due to the line of sight.

Council Member Engelbrecht stated that larger vehicles in regular spaces could also block the travel lanes due to their size.

Nelson stated that this proposal was only addressing Hickory Street. He provided a graphic on the two hour time limited parking on Hickory Street, a summary of the parking restrictions, and the requirements for the compact parking.

Consensus of the Council was to proceed with the staff recommendation.

C. ID 14-0730 Receive a report, hold a discussion and give staff direction regarding the 2015 State Legislative Program of the City of Denton for the 84th Texas Legislature, including key legislative issues and strategies.

Lindsey Baker, Intergovernmental Relations Coordinator, presented the State Legislative Program for 2015. This program set the policy for the city's legislative program. It provided coordination with stakeholders, city staff, TML, Texas cities, Chamber of Commerce, TWU, UNT, NCTC, non-profits, DISD and others. Staff also worked with the Big City Coalition. The Telicom legislative monitoring service was used to track bills as they moved through the process.

The General Legislative policy would preserve home rule authority and local control. Priority Legislative Agenda items included preservation of revenue sources and budget setting authority, land use planning and zoning. DME General Legislative Agenda included individual statements regarding revenue and taxation, land use resources, utilities, transportation, public safety and general government.

Council discussed whether to, in concert with the city's legislative consultants, put forth some legislation which would put forth the city's priorities. They also discussed having a more active role in drafting the legislation and questioned how Denton could become directly involved in drafting potential legislation such as with TML etc.

Baker stated that staff was directly involved in the drafting of legislation whether in favor or in opposition to a position.

Council Member Engelbrecht stated that another piece to this program would be a diagram on how legislation was processed so the general public had an idea on when it would be best to be involved.

Council Member Gregory suggested that staff work on a bill that specifically communicated that cities had the authority as Denton had done with fracking.

Mayor Watts stated that he was in favor of taking an active role in creating legislation concerning vested rights and to aggressively promote it if legislation was not drafted concerning vested rights.

Council consensus regarding this topic was to keep the language the same and staff would take direction verbally from Council on any changes. In terms of the Sales Tax holiday, consensus was to leave it in with an option to make a decision when more data was available.

Consensus of the Council was to proceed with the staff proposal.

D. ID 14-0744 Receive a report, hold a discussion, and give staff direction regarding the City of Denton Solid Waste Department purchasing approximately 91.4 acres of land from the City of Denton Wastewater Department to be utilized for the expansion of the Municipal Solid Waste Facility.

Vance Kemler, Director of Solid Waste, provided a discussion on the expansion of the municipal solid waste facility which would be a major amendment with TCEQ and take the landfill to 400 acres. Staff was proposing to purchase the tracts of land from the Wastewater Fund.

Mayor Watts stated that the city would essentially be buying the land from itself.

Kemler stated that the land would be purchased from a separate enterprise fund.

Mayor Watts asked how long that land had been in Wastewater Enterprise Fund.

Kemler stated that it was an aggregate of properties.

Chuck Springer, Director of Finance, stated that portions of the tracts had been added over the years by Wastewater. Those assets were put into an enterprise fund at a cost basis. The purchase was based on the market value.

Consensus of the Council was to move forward with the staff recommendation.

Following the completion of the Work Session, the City Council convened in a Closed Meeting to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

A.ID 14-0743 Consultation with Attorneys - Under Texas Government Code, Section 551.071; and Deliberations Regarding Real Property - Under Texas Government Code, Section 551.072.

Receive information from staff pertaining to the acquisition of real property interests related to the proposed expansion and reconstruction of Locust Substation generally located South East of Fort Worth Drive & West Collins Street, in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition

and/or condemnation of parcels of real property near the aforementioned location and more particularly described as: a 2.112 acre tract of land situated in the Alexander Hill Survey, Abstract No. 623, City of Denton, Denton County, Texas and Lot 1, Block A of Garcia Addition, an addition to the City of Denton, Denton County, Texas, according to the plat thereof recorded in document No. 2009-168 of the plat records of Denton, County, Texas where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [14-0740; 14-0742]

B.ID 14-0568 Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption and vested rights; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance; settlement matters concerning gas well drilling in the City; surface development issues involving surface and mineral estates; and legal matters associated with a citizen's initiative regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

C.ID 14-0731 Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 51.086; and Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive a further briefing and presentation from Denton Municipal Electric ("DME") staff regarding certain public power competitive, financial and commercial information relating to issues regarding a proposed term sheet pertaining to a high voltage direct current (HVDC) interconnection that would allow renewable energy and other electric power products to be transferred between the ERCOT grid and other energy grids. Consultation with the City's attorneys regarding legal issues associated with the proposed term sheet and the implementation of the HVDC interconnection where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. Discuss, deliberate, provide staff with direction and consider a final recommendation regarding the term sheet.

D. ID 14-0754 Consultation with Attorneys - Under Texas Government Code, Section 551.071

Consult with and provide direction to City's attorneys regarding potential litigation and legal issues associated with the City's sign code and sign regulations, where a public discussion of such matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas.

**1. PLEDGE OF ALLEGIANCE**

The Council and members of the audience recited the Pledge of Allegiance to the U. S. and Texas flags.

**2. PROCLAMATIONS/PRESENTATIONS**

A. ID 14-0576 Achievement of Excellence in Procurement Award for 2014

Chuck Springer, Director of Finance, presented the achievement of Excellence in Procurement Award for 2014.

**3. CITIZEN REPORTS**

There were no citizen reports for this meeting.

**4. CONSENT AGENDA**

Council Member Hawkins motioned, Council Member Ryan seconded to approve the Consent Agenda and accompanying ordinances and resolutions. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-376

A. ID 14-0678 Consider adoption of an ordinance authorizing the City Manager, or his designee, to execute on behalf of the City of Denton an acceptance of an offer from the Texas Department of Transportation (TxDOT) relating to a grant for the Routine Airport Maintenance Program (RAMP); authorizing the City Manager to expend funds provided for in the grant program; and declaring an effective date. (CSJ No. M1518DNTO). The Airport Advisory Board recommends approval (7-0).

Ordinance No. 2014-377

B. ID 14-0695 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving a contract with Grant Thornton LLP to perform a JD

Edwards (JDE) software application upgrade from version 9.0 to 9.1 and Tools Upgrade from 9.1.3 to 9.1.4, providing for the expenditure of funds therefor; and providing an effective date (RFP 5575-awarded to Grant Thornton LLP in the amount not to exceed \$437,500).

Resolution No. R2014-041

C. ID 14-0697 Consider approval of a resolution revising Administrative Policy No. 403.07 "Debt Service Management" and providing for an effective date. The Audit/Finance Committee recommends approval (3-0).

Resolution No. R2014-042

D. ID 14-0698 Consider approval of a resolution reviewing and adopting revisions to the Investment Policy regarding funds for the City of Denton; and providing an effective date. The Audit/Finance Committee recommends approval (3-0).

Ordinance No. 2014-378

E. ID 14-0723 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a purchase order through the Buy Board Cooperative Purchasing Network for the acquisition of one (1) sewer truck, eight (8) refuse truck chassis, two (2) dump trucks, and one (1) rear load refuse body for various City departments; and providing an effective date (File 5680-awarded to Rush Truck Center in the amount of \$319,632.17, Rush Truck Center, Crane in the amount of \$1,672,248.00, and McNeilus Truck and Manufacturing Co. in the amount of \$78,411.00). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-379

F. ID 14-0724 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Houston-Galveston Area Council of Governments (H-GAC) Cooperative Purchasing Program for the acquisition five (5) refuse bodies for the Solid Waste Department; and providing an effective date (File 5685- awarded to DaDee Manufacturing, LLC in the amount of \$687,181.10). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-380

G. ID 14-0725 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for Electric Overhead Transmission Line Construction and Maintenance Services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5578C-awarded to Chapman Construction Co., L.P. in the five (5) year not-to-exceed amount of \$52,700,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-381

H. ID 14-0726 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving six (6) Altec bucket trucks for Denton Municipal Electric, which are available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the

requirements of competitive bidding; and providing an effective date (File 5679-awarded to Altec Industries, Inc. in the not-to-exceed amount of \$1,271,011). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-382

- I. ID 14-0728 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for tree trimming services for the City of Denton Parks department and other City departments as needed; providing for the expenditure of funds therefore; and providing an effective date (RFP 5577-awarded to Elite Tree Commercial, LLC in the three (3) year not-to-exceed amount of \$300,000).

Ordinance No. 2014-383

- J. ID 14-0733 Consider adoption of an ordinance authorizing the City Manager, or his designee, to enter into an Interlocal Agreement with the North Central Texas Council of Governments for the cooperative purchasing of actuarial shared services associated with other post-employment benefits as defined by Governmental Accounting Standards Board (GASB) Statement Number 45; and providing an effective date.

Ordinance No. 2014-384

- K. ID 14-0737 Consider adoption of an ordinance of the City of Denton, Texas, amending the provisions of Chapter 18 relating to Motor Vehicles and Traffic by repealing Section II of ordinance No. 93-109 which provides for a different definition of "compact vehicle" than the definition adopted by this ordinance; by amending Section 18-1 "Definitions" to add a definition for "Compact Motor Vehicle"; by adding Section 18-91.52 establishing additional parking regulations regarding parking in spaces designated for compact vehicles only; by adding Section 18-91.53 requiring that all vehicles park within designated parking spaces; by adding Section 18-91.54 establishing Back-In Only parking spaces; providing a savings clause, providing for a penalty not to exceed \$500 for violations of this ordinance, and providing for an effective date. Traffic Safety Commission recommends approval (4-0).

Ordinance No. 2014-385

- L. ID 14-0739 Consider adoption of an ordinance of the City of Denton, Texas, authorizing the execution of a First Amendment to the Easement Purchase Agreement, between the City of Denton ("City") and Mahogany Run Investments, L.P. ("Owner"), dated February 5, 2013, to provide for the reimbursement to Owner of \$27,051.58, as more particularly described therein; authorizing the expenditure of funds therefore; and providing an effective date. (State School Sanitary Sewer Interceptor Project - Phase II - Parcel 4)

Ordinance No. 2014-386

- M. ID 14-0750 Consider adoption of an ordinance authorizing the City Manager to execute a contract through the Interlocal Purchasing System (TIPS) Program Contract #2042414 for the replacement of the Emily Fowler Library roof; and providing an effective date (File 5689-awarded to CBS Roofing Services in the amount of \$399,740).



Ordinance No. 2014-387

N. ID 14-0751 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the expenditure of funds for the purchase of one (1) dry-pit submersible pump from DXP Enterprises, Inc., which is available from only one source and in accordance with the pertinent provisions of Chapter 252.022 of the Texas Local Government Code, such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5296-Purchase of Submersible Pump for Pecan Creek Water Reclamation Plant in the amount of \$69,570). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-388

O. ID 14-0752 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for the supply of materials to construct seven (7) aircraft hangars for the Taxilane Quebec Hangar Project at Denton Enterprise Airport; providing for the expenditure of funds therefore; and providing an effective date (RFP 5574-awarded to Erect-A-Tube, Inc. in the not-to-exceed amount of \$614,838).

Ordinance No. 2014-389

P. ID 14-0753 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of an extension to a Professional Legal Services Agreement by and between Cole Schotz, P.A. and the City of Denton, Texas; providing for the expenditure of funds; and providing an effective date (File 5380-in the amount of \$125,000 for a total contract amount of \$200,000). The Public Utilities Board recommends approval (6-0).

Approved the minutes listed below

Q. ID 14-0759 Consider approval of the minutes of August 19, 2014; September 2, 2014; September 4, 2014; September 9, 2014; September 11, 2014; and September 16, 2014.

Ordinance No. 2014-390

R. ID 14-0740 Consider adoption of an ordinance that a public use and necessity exists to acquire fee title to a 2.484 acre tract situated in the Alexander Hill Survey, Abstract No. 623, located in the City of Denton, Denton County, Texas, and more particularly described on Exhibit "A" and located generally in the 200 block of Collins St. ("Property Interest"), for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, including substations and switch stations; authorizing the City Manager, or his designee, to make an initial offer to Tomasa L. Garcia ("Owner") to purchase fee title in and to the property interest for the price of Three Hundred Seventy Eight Thousand Seven Hundred and Eleven Dollars and no cents (\$378,711.00), and other consideration, as set forth in the contract of sale attached as Exhibit "B"; authorizing the expenditure of funds; and providing an effective date.

Ordinance No. 2014-391

S. ID 14-0742 Consider adoption of an ordinance finding that a public use and necessity exists to acquire fee title to a 2.112 acre tract situated in the Alexander Hill Survey,

Abstract No. 623, located in the City of Denton, Denton County, Texas, and more particularly described on Exhibit "A" and located generally in the 1200 block of S. Locust St. ("Property Interest"), for the public use of expansion, construction, maintenance, operation, and improvement of electrical transmission and distribution lines, facilities, and structures, including substations and switch stations; authorizing the city manager, or his designee, to make and initial offer to Richard Woods ("Owner") to purchase fee title in and to the property interest for the price of Four Hundred Ninety Six Thousand Eight Hundred Eighty Eight Dollars and no cents (\$496,888.00), and other consideration, as set forth in the contract of sale attached as Exhibit "B"; authorizing the expenditure of funds; and providing an effective date.

Ordinance No. 2014-392

T. ID 14-0760 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Houston-Galveston Area Council of Governments (H-GAC) Cooperative Purchasing Program for the acquisition of commercial refuse and recycling compactors for the City of Denton Solid Waste Department; and providing an effective date (File 5640-awarded to Wastequip in the three (3) year not-to-exceed amount of \$300,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-393

U. ID 14-0761 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of an Amended Professional Legal Services Agreement incident to power purchasing and related activities, by and between David A. Portz, P.C. and the City of Denton, Texas; providing for retroactive approval thereof; providing for the expenditure of funds; and providing an effective date (File 5554 in the amount of \$50,000 for a total contract amount not-to-exceed \$125,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2014-394

V. ID 14-0766 Consider adoption of an ordinance of the City of Denton, Texas, providing for two hour time limited parking on Mondays through Fridays from 8:00 A.M. until 5:00 P.M. on both sides of Hickory Street from its intersection with Locust Street to its intersection with Railroad Avenue; providing a savings clause; providing for a penalty not to exceed \$500 for violations of this ordinance; and providing for an effective date. Traffic Safety Commission recommends approval (4-0).

Ordinance No. 2014-395

W. SI14-0011 Consider adoption of an ordinance of the City of Denton, Texas, authorizing a special called joint public hearing with the City Council and the Planning and Zoning Commission to be held on Tuesday, December 16, 2014, pursuant to Texas Local Government Code §211.007(b) at the City Council Chambers at 6:30 p.m., to consider recommendation and possible action upon an ordinance amending Subchapter 22, and various other subchapters, of the Denton Development Code as they relate to gas well drilling and production activities; prescribing notice of the joint meeting pursuant to Texas Local Government Code §211.007(d); providing for a recommendation by the Planning and Zoning Commission; superseding the

provisions of all ordinances on the same subject matter to the extent of a conflict; and providing for an effective date.

**5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS**

**6. ITEMS FOR INDIVIDUAL CONSIDERATION**

Ordinance No. 2014-396

- A. ID 14-0755 Consider adoption of an ordinance canvassing election returns of the bond election held on November 4, 2014; and providing for an effective date.

Amber Briggie submitted a Speaker Card for this item and thanked everyone involved in the splash park project and those who voted for the project.

City Secretary Walters read the final vote totals into the record.

Council Member Gregory motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-397

- B. ID 14-0756 Consider adoption of an ordinance canvassing the returns and declaring the results of an election held in the city of Denton, Texas, on November 4, 2014, prohibiting, within the corporate limits of the city of Denton, Texas, hydraulic fracturing, a well stimulation process involving the use of water, sand and/or chemical additives pumped under high pressure to fracture subsurface non-porous rock formations such as shale to improve the flow of natural gas, oil, or other hydrocarbons into the well, with subsequent high rate, extended flowback to expel fracture fluids and solids; and providing an effective date.

City Secretary Walters read the final vote total into the record.

Council Member Roden motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-398

- C. ID 14-0757 Consider adoption of an ordinance canvassing the returns and declaring the results of an election held in the city of Denton, Texas, on November 4, 2014 to legalize the sale of all alcoholic beverages including mixed beverages; and providing an effective date.

City Secretary Walters read the final vote totals into the record.

Council Member Ryan motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-399

D. ID 14-0758 Consider adoption of an ordinance canvassing the returns and declaring the results of an election held in the city of Denton, Texas, on November 4, 2014, for the purpose of determining whether to enact an ordinance authorizing the sale of real property consisting of 1.6598± acres and being a portion of North Lakes Park owned, held, or claimed as a park and being a tract of land in the Robert Beaumont Survey, Abstract No. 31, and being a portion of that certain tract conveyed to said city of Denton by deed recorded in Volume 647, Page 245, of the Denton County Deed Records; and providing an effective date.

City Secretary Walters read the final vote totals into the record.

Mayor Pro Tem Engelbrecht motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

**7. PUBLIC HEARINGS**

Ordinance No. 2014-400

A. Z14-0016 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a rezoning from Regional Center Residential 1 (RCR-1) to Regional Center Commercial Neighborhood (RCC-N) on approximately 2.755 acres. The subject property is generally located along the service road of I-35E, approximately 200 feet southeast of Lillian B. Miller Parkway, in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability, and an effective date (Z14-0016). The Planning and Zoning Commission recommends approval of this request (7-0).

Brian Lockley, Director of Planning and Development, presented the details of the proposal. He stated that the request was to rezone the property from a Regional Center Residential 1 to a Regional Center Commercial Neighborhood. He showed the location map, future land use map, existing zoning map, proposed zoning map, and the purpose of the rezoning. He also reviewed the notification map and the notices received. The Development Review Committee recommended approval as did the Planning and Zoning Commission.

Council Member Johnson asked about the difference between special exceptions and a non-conforming use.

Lockley stated that if the use was a legal use in existence at time when the Code was amended, then the use would be provided a special exception to continue in the same manner prior to the

change in the Code. A non-conforming use resulted from other changes in the Code or setback to it make to non-conforming which could continue but would have restrictions.

Council Member Roden questioned if there would be any change in the types of uses with this rezoning.

Lockley stated that it opened the area for more uses than currently could be done in this area. The existing zoning limited the use in the area.

Council Member Roden asked if this change was for positioning the property for maximum benefit if it were taken for the widening of I-35.

Lockley stated that the proposed rezoning was related to the use and ability to bring existing uses into conformity.

Council Member Johnson stated that the RCCN was the correct zoning for the uses already there and this amendment was an opportunity to straighten out the proper zoning.

Lockley replied correct.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Johnson motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-401

- B. S14-0005 Hold a public hearing and consider adoption of an ordinance providing a Specific Use Permit (SUP) to allow a "Basic Utility;" a Denton Municipal Electric (DME) electrical substation, on approximately 10.07 acres of land within a Regional Center Commercial Downtown (RCC-D) zoning district. The subject property is generally located on the northeast corner of Bonnie Brae Street and Riney Road, in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability, and an effective date (S14-0005). The Planning and Zoning Commission recommends approval of this request (7-0).

Brian Lockley, Director of Planning and Development, presented the details of the proposal. This Specific Use Permit would allow for an electrical substation at the proposed location. He presented the site plan, location map, surrounding uses, zoning map, and an example of the buffer wall. He reviewed the general approval criteria for a specific use permit which the proposal met and the prior action/review which the proposal went through prior to coming to

Council for a public hearing. The Development Review Committee and the Planning and Zoning Commission recommended approval.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-402

C. Z14-0017 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a rezoning from a Neighborhood Residential 4 (NR-4) to a Community Mixed Use General (CM-G) zoning district on approximately 7.02 acres of land. The subject property is generally located on the northwest corner of the intersection of Teasley Lane (FM 2181) and Hickory Creek Road, in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability, and an effective date (Z14-0017). The Planning and Zoning Commission recommends approval of this request (7-0).

Brian Lockley, Director of Planning and Development, presented the information on the public hearing which was a request for a Spouts grocery store. He presented information on the location map, existing zoning map, proposed zoning map, and future land use map. Staff had reviewed the Mobility Plan in terms of Teasley Lane and Hickory Creek Road which eventually would result in a major intersection. He also reviewed the general approval criteria for zoning changes which the proposal met. The Development Review Committee and the Planning and Zoning Commission recommended approval.

Council Member Johnson asked if after the Teasley widening project was completed, would the site have access on Teasley other than Hickory Creek Road for a left out to go northbound.

Earl Escobar, Development Engineer, stated that the road would be a divided roadway with a median opening at Teasley and Jordan. There would be no left turn directly to the site but an off-site access could be acquired.

Council Member Johnson stated that he might have concerns with approval of the project without the ability to get to Teasley without using Hickory Creek Road.

Escobar stated that TxDOT would have the ultimate say on where the access would be.

Council Member Roden stated that Council was only considering the zoning at this meeting and not the site plan.

Lockley stated that was correct.

Mayor Watts felt there was a need to rezone all of the property as the business to the north subbed out a driveway for access.

Council Member Johnson stated that the former mobile home park to the north on Ryan Road and Teasley just approved single family with commercial in the front. He felt it would be best to require rezoning of all of the property at one time in order to get the access.

Council Member Hawkins questioned how much lag time would be involved if the project rezoned all of the property.

Lockley stated that it would take about 45-60 days to get the rezoning for notification and working through the Planning and Zoning Commission.

Council Member Johnson questioned whether the Council could approve the zoning with conditions that the remainder of tract be rezoned so as to not slow the process on the proposed tract.

City Attorney Burgess stated that the issue before Council was the zoning case specific to that property and did not include the northern piece. There was the possibility of re-publication to include that additional piece of property. If so, the proposal would have to go back to the Planning and Zoning Commission and be republished. Council might consider remanding the case back to the Commission and redoing the notices would keep the case alive.

Lockley stated that option would allow staff to include that piece in the request and help with access.

Council Member Johnson questioned if Council could approve zoning on the site with a condition that access to Jordan to be built as part of the development.

City Attorney Burgess stated this was a zoning case and the road was a platting and development issue. The easiest procedure was to remand it back to the Commission and rework the issues as soon as possible.

Council Member Johnson questioned what the likelihood was that the plat would be approved without access to Jordan. Lockley replied it would be unlikely as the access was needed.

The Mayor opened the public hearing.

Waylon Longiro stated that Sprouts would not do the deal without the access. The easement to Jordan would be built at the same time as the development. He had talked to the property owner because of the landscaping buffer which threw off the parking calculations. He talked today with the owner about rezoning the entire property. If they had to wait 45-60 days the store would be not built for at least half a year.

Council Member Johnson stated that they would build all the way to the north and run parallel to Teasley. The property to the north would build a connection into his driveway.

Longiro stated correct.

Mayor Watts stated that delaying the rezoning would delay the project because Sprouts had to start construction now.

Longiro stated yes because of the schedule.

Cecile Chester, Civil Engineer for the project, stated that the driveway had been there since the beginning and Sprouts would not approve it without it. They could not move forward with a preliminary plat until the zoning was approved. The project would be delayed until 2015 if not started as soon as possible due to blackout dates from Sprouts.

The Mayor closed the public hearing.

Mayor Watt stated that if the northern portion were not rezoned then the driveway could not be put in because the drive going through jughandle driveway could not be done per the Code.

Longiro stated that the reason they were doing the rezoning was for the buffer but without the access there would be no deal.

Council discussed the rezoning of the property in terms of access to Jordan, whether to remand the proposal back to the Planning and Zoning Commission, and rezoning of the entire property.

Council Member Johnson motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-403

D. HL14-0007 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, designating the property located at 1108 West Congress Street, legally known as Lot 7 (E 65'), Block 13, High School Addition, as a historic landmark under section 35.7.6 of the Denton Development Code; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability and an effective date. The Planning and Zoning Commission recommends approval of this request (7-0). The Historic Landmark Commission recommends approval of this request (7-0).

Brian Lockley, Director of Planning and Development, presented the details of the proposal which was to designate the West Congress property as a historic landmark. He reviewed the location map, site photos, notification information and the criteria for approval which the property met. The Planning and Zoning Commission and the Historic Landmark Commission recommended approval.

The Mayor opened the public hearing.

Tim Granger, property owner, thanked everyone for help on the project.



The Mayor closed the public hearing.

Council Member Hawkins motioned, Mayor Pro Tem Engelbrecht seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-404

- E. Z14-0018 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for a rezoning from Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning districts to a Neighborhood Residential 6 (NR-6) zoning district on approximately 15.777 acres of land. The subject property is generally located on the north side of Pockrus Page Road, approximately 760 feet east of Camino Real Trail and 625 feet west of Post Oak Boulevard, in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability, and an effective date (Z14-0018). The Planning and Zoning Commission recommended approval of this request (7-0).

Brian Lockley, Director of Planning and Development, presented information regarding rezoning for the Villages of Carmel. He reviewed the location map, vicinity map, existing zoning map, proposed zoning map, mixed uses of the surrounding property, conditions of how much mixed use was in the surrounding property, and connectivity in the area. The general approval criteria for this zoning amendment was reviewed which the proposal met. The Development Review Committee and the Planning and Zoning Commission recommended approval.

The Mayor opened the public hearing.

Rod Zielke, applicant, stated that he was available to answer any questions from Council.

The Mayor closed the public hearing.

Council Member Ryan motioned, Mayor Pro Tem Engelbrecht seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-405

- F. S114-0010 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding amending Chapter 5 of the Code of Ordinances to regulate distances between businesses that sell alcohol and churches, public or private schools, and public hospitals, and providing for a penalty in the maximum amount of \$2,000 for violations thereof, severability and an effective date.

Brian Lockley, Director of Planning and Development, stated that this was an item to amend Chapter 5 of the Code to regulate the distance between businesses that sell alcohol and churches, public or private schools, and public hospitals. The Texas Alcoholic Beverage Commission regulated all phases of this industry in Texas and cities could not impose stricter standards than

the TABC regulations. Packaged sales could not be treated any differently than any other retail operation. TABC did allow a city to prohibit these types of businesses within 300 feet of a church, public or private school or a public hospital. He reviewed the definition of public and private schools and a public hospital. He noted how the distances were measured as defined by the TABC. Staff was recommending approval of this amendment.

Mayor Pro Tem Engelbrecht noted that the distances were established by the TABC and not by the City.

Lockley stated that was correct.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

## **8. CITIZEN REPORTS**

There were no citizen reports for this section of the agenda.

## **9. CONCLUDING ITEMS**

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Hawkins encouraged Denton residents to become aware of the homeless and what could be done for them.

Council Member Engelbrecht encouraged residents to think about reverse litter and to visit the reverselitter .com website.

Council Member Ryan asked for an Informal Staff Report regarding the technology to upgrade the computer systems at the libraries.

Council Member Johnson stated that he had received a letter from Kiwanis about the fireworks show. They were requesting the City provide more funding for the event and he requested a discussion on accommodate that.

Mayor Watts requested to revisit whether the Kiwanis were available for HOT funds.

Mayor Watt suggested a Work Session regarding the Citizen Council on Mental Health in order for them to describe their program.

Mayor Watts requested an update on the tree ordinance.

Mayor Watts requested a discussion on the process regarding the fracking litigation to keep the community informed on regular basis on what was going on.

Mayor Watts requested a report on delivery trucks parking in the middle of the street during business hours.

Mayor Pro Tem Engelbrecht suggested an agenda program regarding the Fred Moore Day Care Nursery School.

B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

With no further business, the meeting was adjourned at 8:39 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS